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OGC 69-0346

24 February 1969

MEMORANDUM FOR THE RECORD

SUBJECT: Meeting with Senator Sam J. Ervin, Jr.

1. On 24 February 1969, at 3 p.m., Mr. Maury and Mr. Houston met with Senator Sam J. Ervin, Jr. Also present were Rufus L. Edmiston and Marcia J. MacNaughton of the staff of the Subcommittee on Constitutional Rights, Senate Committee on Judiciary.

2. The subject was S. 782, the successor to S. 1035, and Mr. Houston opened with reference to the opinion by the Library of Congress on protection of CIA's information which Senator Ervin had introduced into the Congressional Record and which he had mentioned to the Director. Senator Ervin had read our memorandum of law differing with the Library of Congress' conclusions, and Mr. Houston followed along with some discussion of the technical aspects of what we ran into when we found ourselves in court. Senator Ervin either did not grasp, or did not agree with, the security implications we foresaw arising out of court cases based on his law and said, in effect, that he felt this would not change CIA's situation. He pointed out that at the request of the Agency he had made a number of changes in the bill which he felt were well founded, and that he had taken care of all the possible objections, so he was opposed to granting CIA any exemption from the whole bill. Mr. Houston said it was obvious that our differences arose from the different concept of the role the court would play as a result of the passage of the bill.

3. Mr. Maury dwelt at some length on our concept of personnel security, pointing out the intensive efforts of the opposition intelligence agencies to penetrate us, the stress and

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strain of agents operating abroad, and the need for supervision and knowledge of our employees. He felt the bill would impair our right to inquire as to certain employee activities, but Senator Ervin differed, saying that if we thought that the matters in question were a danger to our security they would be pertinent to his employment and, therefore, would not be barred by the bill.

4. The Senator brought up his frequently expressed distrust of the polygraph. In response, Mr. Maury discussed how we use the polygraph and its effectiveness, emphasizing that it was merely a tool, not a definitive test. Senator Ervin said that if he were alone on this bill he would abolish the polygraph as he did not think it was a valid approach. He then said that he had received a great many complaints from people about the use of the polygraph, particularly about certain of the questions asked. Mr. Maury pointed out that no reports of such complaints had come back to us and we would like to know something about the nature of the complaints, particularly what questions were found most objectionable. Senator Ervin conceded that many of the complainants might have been applicants rather than employees and there might have been more complaints from NSA than from CIA, but he did not offer any further information on this subject.

5. Mr. Maury asked for Senator Ervin's interpretation of the right to counsel under the bill, and the Senator agreed that as written an employee could ask for counsel as soon as he felt he was getting any sort of hostile questioning or disciplinary interviews. Mr. Maury said he thought this impaired the command structure and, while we would agree to the right of counsel in serious situations where a man's rights might be substantially damaged, there should be some limitation. Later on in the conversation, Senator Ervin appeared to concede that there was some merit to this argument and said he might consider appropriate language limiting the right to counsel. There was also further talk about the fact that applicants were given certain rights under the bill which could lead to harassment by the Students for a Democratic Society or similar groups. Again, this seemed to appeal to Senator Ervin, and he said he might give some consideration to limiting the applicants' rights.

6. Outside of the two small points mentioned above, it was clear that Senator Ervin thought he had done everything possible for CIA in his earlier changes and he was adamantly

opposed to a total exemption for the Agency. The meeting was friendly, however, and in fact Senator Ervin said he enjoyed it. He seemed relaxed and pleasant throughout.

s/  
LAWRENCE R. HOUSTON  
General Counsel

cc: Executive Director  
DDS  
Legislative Counsel